

Remarks

Claims 62-106 are pending in the subject application. By this Amendment, Applicant has canceled claims 90-95 and 102-106 and amended claims 62, 69, 71-73, 82-84, 88-89, 96-99, and 101. Support for these amendments can be found throughout the specification and original claims. Specifically, support can be found, for example, in paragraphs [0005], [0028], and [0029]. Entry and consideration of the amendments presented herein is respectfully requested. Accordingly, claims 62-89, 96-99, and 101 are currently before the Examiner. Favorable consideration of the pending claims is respectfully requested.

Submitted herewith is a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 for the subject application. Also submitted herewith is a supplemental Information Disclosure Statement (IDS), accompanied by the form PTO/SB/08A. Applicant respectfully requests that the references listed on the form PTO/SB/08A be considered and made of record in the subject application.

Claims 92-96 and 101-106 are rejected under 35 U.S.C §112, second paragraph, as indefinite. Claims 92-95 and 102-106 have been canceled rendering this aspect of the rejection moot. Claims 96 and 101 have been amended to more clearly define Applicant's current invention. Applicant believes that claims 96 and 101 as now presented particularly and distinctively describe Applicant's invention. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C §112, second paragraph, is respectfully requested.

Claims 62-68, 70-84, and 90-102 are rejected under 35 U.S.C §102(b) as anticipated by Roberts (U.S. Patent No. 3,556,161). As noted above, claims 90-95 and 102 have been canceled rendering this aspect of the rejection under 35 U.S.C. §102(b) moot. Applicant traverses the rejection of the remaining claims because the cited reference fails to teach each and every element of the claimed invention. Specifically, '161 fails to teach a processing step that includes an initial uniaxial paste extrusion of a hydrostatic pressure coalescible (HPC) filter cake followed by a single reorienting step. In the first phase of the processing step, the filter cake, which contains both polytetrafluoroethylene (PTFE) and approximately 17% to 20% wetting liquid components, is extruded to produce a uniaxial, planar orientated PTFE structure. This uniaxial structure then undergoes a second phase re-orientation processing. Applicant respectfully points out that the '161

patent and in particular, the section recited by the examiner fail to teach an initial paste extrusion step of a HPC filter cake followed by a single reorientation step.

In order to anticipate, a single reference must disclose within the four corners of the document each and every element and limitation contained in the rejected claim. *Scripps Clinic & Research Foundation v. Genentech Inc.*, 18 U.S.P.Q. 2d 1001, 1010 (Fed. Cir. 1991).

Applicant submits that '161, which pertains to a network of layered PTFE structures progressively developed by numerous calendering and layering steps, fails to meet this standard as set forth by the Federal Circuit. '161 is silent with respect to the order of its processing steps. It fails to recognize that the order of the processing steps results in an efficient production of a biaxially oriented PTFE sheet without the multitude of re-orienting steps necessary for '161's structures and methods. Moreover, the specific examples set forth therein fail to remedy this shortcoming. Example I of '161 teaches first rolling its filter cake followed by both doubling and rotating the rolled sheet. (column 8, lines 31-35). This three-phase processing step is repeated numerous times until a laminated sheet of lamellaes is formed. Applicant submits that the initial processing step of "uniaxial paste extrusion" is distinct from "rolling." Rolling is a fabricating process wherein material is passed through rolls. The purpose of rolling is to systematically reduce the thickness of the resulting sheet. In contrast, paste extrusion pertains to shaping the PTFE material by forcing a material through a die. The PTFE then takes the shape of the die.

Although Applicant notes that the examiner cites to Example II (column 9, lines 54-75; column 10, lines 1-17) for disclosing an extrusion step, Applicant respectfully points out that Example II cannot anticipate the claimed invention because, in part, it does not disclose the paste extrusion of a HPC filter cake. Instead, the PTFE and kerosene are tumbled to form a blend, which is subsequently compacted into a tube shaped form and not a HPC filter cake. Furthermore, '161 does not teach that its blend includes 17% to 20% of solvent so that the blend is hydrostatic pressure coalescible.

Likewise, the general disclosure and remaining examples of '161 fail to teach the processing step of the claimed invention. Instead, the disclosure relates to a series of rollings and calenderings to produce the layered lamellaes of the '161 structure. Each folding, doubling, and rolling or

calendering series produces a new layer of lamellae in the '161 sheet. In contrast, the claimed methods and structures undergo only a single reorientation.

Applicant respectfully points out that the specification implicitly supports Applicant's claimed step, wherein the second phase of processing is a means of re-orientation in a single step. Applicant points out in paragraph [0005] that the instant application implicitly supports the presently claimed invention's recitation to re-orienting means that occur in a single step. There is no requirement that the claim terminology must be present verbatim as used in the specification. It is well settled in patent law that the claim language of an amendment need not be disclosed word for word in a specification. *In re Wilder*, 222 U.S.P.Q 369, 372 (Fed. Cir. 1984) ("It is not necessary that the claimed subject matter be described identically, but the disclosure must convey to those skilled in the art that applicant had invented the subject matter later claimed.") (emphasis added); see also MPEP §2163.02. Thus, support for a claim limitation can be implicit or inherent in the disclosure of a patent application, and Applicant respectfully asserts that the claims under final rejection do find such support in the subject application.

With the phrase "a single step" of re-orienting may not appear verbatim in the specification as filed, Applicant respectfully submits that it is implicit from the description of the advantages of the present invention over '161. The instant specification points out that one of the advantages of the claimed invention over '161 is the elimination of multiple of calendering steps. Since the claimed invention removes the requirement of the multiple of calendering steps, it is implicit that the invention only requires a single re-orientation step.

Furthermore, paragraphs [0028] and [0029] provide a description of single re-orientation. The claimed structure is obtained by re-orienting in the biaxial direction until the stress longitudinally and transversely are equal. Because the first processing phase of paste extrusion introduces a stress into the filter cake, the subsequent re-orientation phase matches that stress in another direction. This is accomplished in a single type of re-orientation and does not require the numerous re-orienting steps taught by '161.

Additionally, '161 fails to teach that the single phase bi-orienting means takes place for a sufficient period of time for the longitudinal and transverse stresses to essentially equalize. The

resulting claimed structure exhibits the biaxial orientation that distinguishes the claimed invention from the teachings of '161.

Thus, in view of the remarks above, '161 fails to teach an initial processing step of a paste extrusion followed by a single re-orientation phase. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(b).

Claims 69, 85-89 are rejected under 35 USC §103(a) as unpatentable over Roberts (U.S. Patent No. 3,556,161). Applicant respectfully traverses this ground of rejection because '161 does not suggest the requisite modifications to arrive at the claimed methods.

Of course, a finding of obviousness is proper only when the cited reference contains a suggestion or teaching of the claimed invention. Here, '161 is devoid of any teaching of the particular methods claimed by Applicant. It is only the instant application that provides such a teaching, and it cannot be used to reconstruct the prior art for a rejection under 35 USC §103. This was specifically recognized by the C.C.P.A. in *In re Sponnoble*, 56 C.C.P.A. 823, 832-33, 160 U.S.P.Q. 237, 243 (1969):

The court must be ever alert not to read obviousness into an invention on the basis of the applicant's own statements; that is we must review the prior art without reading into that art appellant's teachings. *In re Murray*, 46 CCPA 905, 268 F.2d 226, 112 USPQ 364 (1959); *In re Sprock*, 49 CCPA 1039, 301 F.2d 686, 133 USPQ 360 (1962). The issue, then, is whether the teachings of the prior art would, in and of themselves and without the benefits of appellant's disclosure, make the invention as a whole, obvious. *In re Leonor*, 55 CCPA 1198, 395 F.2d 801, 158 USPQ 20 (1968). (Emphasis in original).

The mere fact that the purported prior art could have been modified or applied in a manner to yield Applicant's invention would not have made the modification or application obvious unless the prior art suggested the desirability of the modification. *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). Moreover, as expressed by the CAFC, to support a rejection under 35 U.S.C. §103, “[b]oth the suggestion and the expectation of success must be founded in the prior art” *In re Dow Chemical Co.*, 837 F.2d 469, 473 (Fed. Cir. 1998). Applicant respectfully submits that '161 does not disclose or suggest Applicant's methods.

‘161 fails to suggest the modification wherein a HPC filter cake is initially processed by uniaxial paste extrusion followed by a single step of re-orienting. 161 fails to teach or suggest methods wherein a filter cake is processed in essentially a two-step process—plug flow paste extrusion and a single reorientation step. ‘161 advocates a lengthy and inefficient process of repeatedly doubling, rotating, and rolling the ‘161 laminate (column 8, lines 41-42).

Advantageously, the paste extrusion of the filter cake allows a greater percentage of particulates to be incorporated into the biaxial planar structure than previously known. Until the present invention, the extrusion process limited the percentage of particulate fillers to no more than 5%. In contrast, the presently claimed invention surprisingly can include up to about 90% particulate filler.

Moreover, ‘161 fails to suggest the advantageous property wherein the single means of re-orienting produces a structure whose longitudinal and transverse stresses are about equal. This unique feature occurs as a result of not over processing the sheet with the numerous orienting steps advocated by ‘161. Instead, ‘161 provides no guidance on how to obtain approximately equal stresses in the transverse and longitudinal directions of the PTFE structure. In contrast, the claimed methods are more efficient and less timely than those suggested by ‘161. Accordingly, reconsideration and withdrawal of the rejection under 35 USC §103(a) is respectfully requested.

It should be understood that the amendments presented herein have been made solely to expedite prosecution of the subject application to completion and should not be construed as an indication of Applicant’s agreement with or acquiescence in the Examiner’s position. Applicant expressly reserves the right to pursue the inventions disclosed in the subject application, including any subject matter canceled or not pursued during prosecution of the subject application, in a related application.

In view of the foregoing remarks and amendments to the claims, Applicant believes that the currently pending claims are in condition for allowance, and such action is respectfully requested.

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Docket No.RRA-101T
Serial No. 10/810,763

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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Attachments: Request for Continued Examination (RCE) Transmittal
Supplemental Information Disclosure Statement with Form PTO/SB/08A